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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12

13 KXTV, LLC dba ABC10,

Case No. 2:19-at-00182

14 Plaintiff,

15 v.

16 UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES,

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF FOR VIOLATION
OF THE FREEDOM OF INFORMATION
ACT, 5 U.S.C. § 552 *et seq.***

17 Defendant.
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20 Plaintiff KXTV, LLC dba ABC10 (“ABC10”), an ABC-affiliated television station serving
21 Sacramento, California and neighboring communities in Northern California, by its undersigned
22 attorneys, alleges as follows:

23 **INTRODUCTION**

24 1. ABC10 brings this action under the Freedom of Information Act, 5 U.S.C. § 552 *et*
seq., as amended (“FOIA”), to enjoin the United States Department of Citizenship and
Immigration Services (the “USCIS”) from continuing to improperly withhold agency records that
are responsive to a FOIA request made by ABC10 to the USCIS via email on August 30, 2018
(the “Request”), seeking documents regarding Omar Abdulsattar Ameen Husayn al-Sarhani al-

1 Rawi (“Ameen”), and to promptly disclose the records sought by the Request. The USCIS
2 improperly denied the Request, in violation of its duties under FOIA.

3 2. The Freedom of Information Act “focuses on the citizens’ right to be informed
4 about ‘what their government is up to,’” by requiring the release of “[o]fficial information that
5 sheds light on an agency’s performance of its statutory duties.” *DOJ v. Reporters Comm. for*
6 *Freedom of the Press*, 489 U.S. 749, 750, 773 (1989) (citation omitted). “[D]isclosure, not
7 secrecy, is the dominant objective” of FOIA. *Dep’t of Interior v. Klamath Water Users Protective*
8 *Ass’n*, 532 U.S. 1, 8 (2001) (internal quotation marks and citations omitted). ABC10 plays a
9 critical role in providing information to citizens about “what their government is up to.” Indeed,
10 the First Amendment’s guarantee of freedom of the press is meant to enable journalists to play an
11 “essential role in our democracy,” to “bare the secrets of government and inform the people.”
12 *New York Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J. concurring).

13 3. Through its FOIA Request, among other things, ABC10 seeks to learn information
14 that may shed light on why Ameen was allowed into the United States and what, if anything,
15 USCIS did to verify information that Ameen provided, including whether the USCIS followed
16 procedures when it approved Ameen’s application for refugee status, authorizing his presence in
17 the country. Ameen, a resident of Sacramento, California is accused of being a member of
18 ISIS/Al-Qaeda since 2004, and committing numerous acts of violence on behalf of these
19 organizations, ranging from planting improvised explosive devices (“IEDs”) to at least one
20 murder. *See generally*, Complaint, Memorandum of Extradition Law and Request for Detention
21 Pending Extradition Proceeding, United States v. Ameen, Case No. 2:18-mj-00152-EFB-1, U.S.
22 District Court, Eastern District of California (“Ameen’s Extradition Case”).

23 4. Ameen began the process of applying for refugee status in or about April 2012.
24 Ameen’s application was approved by the USCIS in June 2014, the same month he allegedly
25 killed a police officer in his home in Rawah, Iraq. Five months later, Ameen settled in
26 Sacramento as a refugee. *See* Ameen’s Extradition Case, Memorandum of Extradition Law and
27 Request for Detention Pending Extradition Proceeding, filed August 15, 2018 by the United States
28 (“Ameen Memo”). A true and accurate copy of the Ameen Memo is attached hereto as **Exhibit A**.

1 5. As discussed in detail in the Ameen Memo in Ameen's Extradition Case, evidence
2 gathered by the Federal Bureau of Investigation corroborated Ameen's membership in and actions
3 on behalf of ISIS and Al-Qaeda, including a violent, premeditated murder on behalf of ISIS.
4 Ameen Memo at 1; 17-18.

5 6. As part of an FBI investigation that began in 2016, witnesses interviewed by the
6 FBI identified Ameen as a member of Al-Qaeda and indicated his involvement with the
7 placements of IEDs. *Id.* at 1-2; 11-12.

8 7. Based on the FBI's investigation, Ameen lied about material aspects of his
9 background to gain entry into the United States and flee prosecution for the crimes he committed.
10 *Id.* at 11. Ameen intentionally concealed from his refugee application his affiliation with ISIS
11 and/or Al-Qaeda. *Id.* at 16.

12 8. For example, Ameen claimed that he is fleeing violence after his father was shot to
13 death due to his cooperation with the American military. *Id.* at 17. However, Ameen's father's
14 death certificate indicates he died from natural causes. *Id.* at 17-18. According to the Ameen
15 Memo, Ameen also falsely claimed on his refugee application that he and his brother were victims
16 of a raid and kidnapping in March 2012, and that his brother was never seen again. *Id.* at 18-19.
17 In reality, the Ameen Memo notes that his brother had been arrested by the Iraqi government for
18 terrorism since January 2011, his release date unknown. *Id.* However, these two claims of
19 persecution formed the basis of his acceptance into the United States as a refugee. *Id.* at 19.

20 9. The United States has spent over \$4.8 trillion dollars to fight wars in Afghanistan,
21 Pakistan and Iraq. *See* Economic Costs, Watson Institute of International and Public Affairs,
22 updated September 2016 (*available at* <https://watson.brown.edu/costsofwar/costs/economic>, last
23 visited February 6, 2019). In one recent year alone, the United States spent \$5.4 billion to fight
24 ISIS – nearly \$11 million each day. *See* How Much Money Goes to Fighting and Funding ISIS, in
25 Two Charts, Market Watch, December 15, 2015 (*available at*
26 <https://www.marketwatch.com/story/how-much-money-goes-to-fighting-and-funding-isis-in-two-charts-2015-12-14>, last visited February 6, 2019). The withheld records sought by ABC10 will
28 inform ABC10's viewership and the public about how Ameen came to reside in Sacramento in

1 spite of the extraordinary effort the federal government has devoted to fight and defeat ISIS.
2 Ameen's very presence within the country raises serious questions about the vetting process used
3 by the USCIS and the public is entitled to learn the information within the immigration documents
4 withheld by USCIS.

5 **PARTIES**

6 10. ABC10 is an ABC-affiliated television station licensed to Sacramento, California,
7 United States. The station is owned by TEGNA Inc.

8 11. The USCIS is a federal agency within the meaning of 5 U.S.C. § 552(f). Plaintiff is
9 informed and believes that the USCIS has possession and control of the records sought by the
10 Request.

11 **JURISDICTION**

12 12. This Court has subject-matter jurisdiction over this action and personal jurisdiction
13 over the parties under 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. §§ 701-706, and 28 U.S.C. § 1331.

14 **VENUE**

15 13. Venue in the Eastern District of California is proper under 5 U.S.C. § 552(a)(4)(B)
16 as ABC10 has its principal place of business in Sacramento County and the Request was made in
17 Sacramento County. For the same reasons, venue also is proper under 28 U.S.C. § 1331(e).

18 **FACTS**

19 14. Through the Request to the National Records Center, FOIA/PA Office of USCIS
20 sent by email on August 30, 2018, ABC10 sought access to and copies of the following records:

- 21 • “Copies of all immigration files, photos, annotations, and investigations
22 compiled for Omar Abdulsattar Ameen Husayn al-Sarhani al-Rawi, born
23 December 20, 1973, in Al Anbar Governorate, Iraq” including:
24 1. “Resettlement Registration Form”
25 2. “I-590 Registration for Classification as Refugee”
26 3. “I-485 Application to Adjust Status”
27 4. “Transcripts of all interviews conducted in conjunction with his I-485
28 Application to Adjust Status”

5. “Transcript of May 26, 2016 interview in support of his adjustment of status application”
6. “Transcript of all interviews conducted during his refugee interview with USCIS officers in Turkey prior to his arrival in the United States”
7. “Written sworn statement in support of his refugee application” and
8. “Approved refugee application, dated June 5, 2014.”

FIRST CLAIM FOR RELIEF

(Violation of FOIA)

17. ABC10 incorporates by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

18. The USCIS has a legal duty under FOIA to determine whether to comply with a request within 20 days after receiving the request, and also has a legal duty to immediately notify the requester of the agency's determination and the reasons therefor. ABC10 has a legal right under FOIA to obtain the agency records they sought in their Request, and there exists no legal basis for the USCIS's failure to make these records available.

19. The USCIS's failure to make promptly available the records sought by the Requester violates FOIA, 5 U.S.C. § 552(a)(3)(A) and (a)(6)(A)(ii), and applicable regulations promulgated thereunder.

20. Ameen's purported membership with terrorist organizations is publicly known. A simple Google search reveals articles and legal memorandum regarding his involvement with ISIS/Al-Qaeda, including the Ameen Memo (posted on the United States Department of Justice website), and various articles by the *New York Times*, *Associated Press*, and *Sacramento Bee*.

1 21. Thus, “the public has a strong interest in understanding how and why [the]
2 government allowed a man with a far-worse-than-checkered past” to remain in the country.
3 *Munchkin v. Department of Homeland Security*, 225 F. Supp. 3d 1069, 1077 (N.D. Cal. 2016).
4 “So although the information [ABC10] seeks is tied solely to one individual . . . much of it sheds
5 light on multiple decisions by multiple DHS personnel . . . detail[ing] what they knew about
6 [Ameen’s] past and when they knew it. Those details shed light on DHS’s performance of its
7 statutory duties and most certainly lets citizens know what their government is up to.” *See id.* at
8 1076-1077 (citations and quotations omitted).

9 22. Since his arrest, Ameen has been the subject of numerous news reports. *See, e.g.*,
10 <https://www.nytimes.com/2018/08/15/world/middleeast/sacramento-al-qaeda-isis-arrest.html>;
11 <https://www.sacbee.com/news/local/crime/article220041950.html>. Given Ameen’s alleged past,
12 “it is enough to warrant a belief by a reasonable person that—perhaps—more should have been
13 done” in his immigration vetting process. *Munchkin, supra* at 1077 (citations and quotations
14 omitted). Thus, disclosure of the documents ABC10 seeks is appropriate under FOIA. *Id.* at
15 1078.

PRAYER FOR RELIEF

WHEREFORE, ABC10 requests the Court award them the following relief:

- 18 A. Declare that the USCIS violated FOIA in its response to ABC10's FOIA request;

19 B. Order the USCIS to immediately disclose the requested records to ABC10 and

20 enter an injunction prohibiting the USCIS from continuing to withhold the requested records;

21 C. Award ABC10 its reasonable costs and attorney's fees;

22 D. Grant such further relief as the court may deem just and proper.

Respectfully submitted,

25 | Dated: March 7, 2019

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By: /s/ Thomas R. Burke
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